

**Arizona State Board of Homeopathic Medical
Examiners
Minutes of Regular Meeting
September 14, 2004**

I. CALL TO ORDER

Presiding officer, Bruce Shelton, MD, MD(H), called the meeting to order at 9:00 a.m.

BOARD MEMBERS PRESENT:

Bruce Shelton, MD, MD(H), President
Charles Schwengel, DO, MD(H), Vice President
Anna Marie Prassa, Secretary-Treasurer
Don Farris
Annemarie Welch, MD, MD(H)

BOARD MEMBERS ABSENT:

Garry Gordon, MD, DO, MD(H)

Dawn Lee, Assistant Attorney General and Christine Springer, Executive Director and members of the public were also present.

II. ROLL CALL

The Board welcomed Mr. Don Farris who was appointed to serve in one of the public member positions through 2007. Mr. Farris has extensive board and commission experience and has served with the Board of Physical Therapy as well as the Board of Homeopathic Medical Examiners in previous years.

III. REVIEW, DISCUSS, and ACTION: MEETING MINUTES

Dr. Welch made a motion adopting the July 20, 2004 Regular Session minutes with one correction to remove Mrs. Joan Heskett's name, since she had tendered her resignation and was not present in July. Ms. Anna Prassa seconded the motion that passed unanimously.

Dr. Welch made a motion to adopt the July 20, 2004 Executive Session minutes. Ms. Prassa seconded the motion that passed unanimously.

IV. ANNUAL MEETING – REVIEW AND ACTION

A. Elections, Fees, and Meeting Schedule for Fiscal Year 2005

Dr. Shelton made a motion nominating Dr. Charles Schwengel for President. Ms. Prassa seconded the motion. The vote was unanimous to approve Dr. Schwengel for President.

Dr. Shelton made a motion nominating Dr. Annemarie Welch for Vice-President. Ms. Prassa seconded the motion. The vote was unanimous to approve Dr. Welch for Vice-President.

Dr. Shelton made a motion to nominate Ms. Anna Prassa to continue serving in the position of Secretary-Treasurer. Motion seconded by Dr. Schwengel and

passed unanimously. At this point in the meeting Dr. Schwengel chaired the remainder of the meeting in his new position as Board President.

Dr. Shelton made a motion to retain the current fee structure for Fiscal Year 2005. He noted that the fees will change after rules contained in Chapter 38, Article 1 are approved by the Governor's Regulatory Review Council. Dr. Welch seconded the motion to retain the current fee structure that passed unanimously.

The Board reviewed the Fiscal Year 2005 scheduled meeting dates and noted their approval.

The meeting and fee schedules are attached to and made a part of these minutes.

B. Award

The Board presented an award plaque to Dr. Bruce Shelton who served as President of the Board from 1998-2004 and thanked him for his many hours of dedicated service to not only the board but to the homeopathic medical community.

V. REVIEW, CONSIDERATION, AND ACTION ON APPLICATIONS

A. Physicians

Dr. Jeffrey Rutgard was present to respond to questions regarding his license application. Dr. Schwengel asked the applicant why he applied for the homeopathic license. Dr. Rutgard explained his previous legal problems with the federal government. He stated that the final charges involved \$65,000 of Medicare fraud in California. He served five years and completed all of his release obligations. For the past five years he has served as a medical doctor in volunteer capacities overseas. Dr. Rutgard indicated he has active, probationary licenses in the states of Illinois and Pennsylvania. Dr. Schwengel indicated his concern with the details provided in the original indictment and questioned whether or not Dr. Rutgard had made mistakes in his medical practice. Dr. Rutgard directed the board's attention to a letter written in his defense by Dr. Henry Bayliss, M.D., Chief of Ophthalmic Plastic Surgery at University of California, Los Angeles. Board Member Prassa inquired about Dr. Rutgard's reasons to practice homeopathy, rather than allopathic medicine in one of the states he currently holds an active license. Dr. Rutgard stated that he has an interest in homeopathic medicine and would enjoy further research in the field.

At this point the board allowed Dr. Rutgard to provide an oral review of clinical case number 4. Following the presentation, Dr. Shelton stated that it appears that Dr. Rutgard has an adequate understanding of homeopathic medicine. He stated that further study with Dr. Rowe would be helpful in furthering his knowledge.

Mr. Farris stated that the public tends to be very unforgiving of someone who has had sanctions taken against a medical license. He indicated a concern about Rutgard's previous record in California. Ms. Prassa stated that she was uncomfortable approving the application.

Dr. Robert Gear, NMD was present and addressed the board. He indicated that he had been asked by Dr. Rutgard to serve as a supervisor should the board approve the application. Dr. Rutgard would assist in cancer research, assessment of ENT patients, and general intake of patients.

At 10:35 a.m. the Board adjourned to executive session for legal advise pursuant to A.R.S. §38-431.03(A)(1) following a motion by Ms. Prassa. The motion was seconded by Dr. Shelton and passed unanimously. They returned to the regular meeting at 10:40 a.m.

Dr. Shelton moved to grant Dr. Rutgard's application and place the license in an active probationary status. He directed that a Consent Agreement and Order be prepared that would require the following:

- Within three years obtain an additional 180 hours of board approved training in homeopathic medicine;
- Obtain at least 40 hours of board approved training in orthomolecular medicine;
- Develop a practice relationship with a supervisory physician, approved by the board, for a three year monitored period;
- Request that the supervisory physician submit regular reports to the board regarding Dr. Rutgard's job duties

The motion also included a requirement that the board pre-approve training classes and that the Consent Agreement and Order be reviewed by the board before Dr. Rutgard's license becomes effective. The board requested that Dr. Rutgard be present at the next meeting during the discussion of the Consent Agreement and Order. Dr. Shelton's motion was seconded by Mr. Farris. Roll Call as follows:

Shelton – Aye

Schwengel – Aye

Farris – Aye

Welch – Aye

Prassa – No

The motion was approved with a majority vote of 4 ayes and 1 no.

Dr. Rick Shacket and Dr. Robert Gear were present to address the board concerning the status of the consent agreement currently in effect governing Dr. Shacket's practice in the State of Arizona. Dr. Shacket's license is active on probation effective August 9, 2004. Board member Prassa inquired about Dr. Shacket's future plans. Dr. Shacket explained that he is in active practice with Dr. Gear and will train staff and continue to seek additional training and

knowledge in the field of anti-aging. He stated he is not currently licensed as an osteopathic physician in any other state at this time.

Dr. Gear addressed the board and stated he was pleased with the business arrangement with Dr. Shacket. Typically, Dr. Shacket takes the patient history and performs a physical. He indicated that Dr. Shacket has excellent judgment in determining a diagnosis and is currently developing a family practice curriculum that will be used to train naturopaths.

B. Homeopathic Medical Assistants

Dr. Shelton made a motion approving the homeopathic medical assistant applications submitted by Dannette Hunnel, Sheila Solgado and Reza Sharifi. The motion was seconded by Ms. Prassa and passed unanimously.

VI. REVIEW, CONSIDERATION AND ACTION REGARDING INVESTIGATIONS/COMPLAINTS

04-04 W.Y. and H.Y. vs. Stuart Lanson, MD, MD(H) and

04-06 N.D. vs. Stuart Lanson, MD, MD(H)

Investigative Interview (pursuant to ARS §32-2934.C)

Dr. Lanson was present to respond to questions from board members. Dr. Welch reviewed complaint 04-04 for board members. There appeared to be three allegations: excessive fees, inappropriate treatment, and failure to provide medical records. Dr. Schwengel and Dr. Shelton expressed concern that the matter may be outside the board's jurisdiction. Assistant Attorney General Lee explained that the investigative interview format would provide a forum to conduct further investigation to determine if jurisdiction was within the board's purview.

Dr. Shelton moved to dismiss Complaint Investigation 04-06 (N.D. vs. Stuart Lanson) and refer the matter to the Arizona Medical Board. He stated that no violations of homeopathic practices were involved in the matter and no homeopathic procedures were utilized in treating the patient. Motion seconded by Ms. Prassa and passed unanimously.

Dr. Lanson addressed the board. He indicated that approximately 8% of his 1500 active patients utilize homeopathy. In the specific matter, (04-04 W.Y. and H.Y vs. Stuart Lanson) homeopathy was not utilized. He stated that H.Y responded very favorably to the therapy. Dr. Shelton expressed a concern that office staff may not communicate well with patients and that Dr. Lanson may want to consider a practice management consultant in an attempt to avoid further complaints. Dr. Shelton noted that the board had reviewed six complaints concerning Dr. Lanson's practice (usually fee disputes) over a two year time frame. Ms. Prassa agreed that a practice manager may be a cost effective solution to Dr. Lanson in as much as he must respond to each filed complaint in a very detailed manner to both the allopathic and homeopathic medical boards. Mr. Farris stated that it was his belief that Dr. Lanson may not have been fully

informed of the patient's concerns by his office staff. Dr. Lanson agreed that he may rely too heavily on front office staff to address patient concerns and that he is agreeable to seeking other ways to become more involved in addressing those concerns. Dr. Welch suggested that he may wish to tape record sessions and provide the patient with a copy of the tape that would allow them to review as questions about fees or expectations arise. Dr. Lanson stated that a copy of a CD explaining his practice is already provided to all patients along with copies of their signed informed consents. He agreed to send a letter to the board explaining how he will address changes to his front office practice methods.

Ms. Prassa moved to dismiss the complaint matter 04-04. Dr. Shelton seconded the motion that passed unanimously.

VII. REVIEW, DISCUSS AND ACTION ON PROFESSIONAL BUSINESS

1. Assistant Attorney General Lee expressed concern about a previous board practice of assigning a board member to serve as the chief investigator in complaint matters that come before the board. She explained that this practice places the assigned board member into the position of recusal from voting on the matter. She suggested that each board member should be provided copies of all documents which will enable each member to form an understanding of all of the issues surrounding the complaint. Dr. Shelton made a motion approving the complaint procedure as discussed. Dr. Schwengel seconded the motion that passed unanimously.
2. Dr. Shelton made a motion to accept the informed consent concerning Plaquex Intravenous Therapy filed by Dr. Gordon Josephs. Motion seconded by Ms. Prassa and passed unanimously.
3. The board noted but did not discuss the proposed rules regarding the Division of Public Health Services Trauma Centers.
4. The Executive Director informed the board that no further action had been taken by the Department of Revenue on proposed rules concerning tax exemptions for homeopathic prescriptions drugs. Dr. Shelton recused himself during this discussion.

VIII. REVIEW, DISCUSS AND ACTION REGARDING OTHER BUSINESS

1. and 2. Executive Director, Chris Springer presented a quick overview of the FY 2006 budget, strategic plan, and Information Technology Report.

IX. FUTURE MEETINGS/AGENDA ITEMS

No discussion

X. CALL TO THE PUBLIC

Amanya Jacobs expressed her concern that , Dr. Rutgard's licensure may have been premature and that the board may wish to re-consider the issuance of the license until he has obtained further training in classical homeopathy. Dr. Schwengel thanked her for her comments.

CLOSE OF BUSINESS/ADJOURNMENT

The meeting adjourned at 11:50 a.m. following a motion by Dr. Shelton. Ms. Prassa seconded the motion that passed unanimously. The next Regular Meeting of the Board will convene at the State Board's Office located at 1400 W. Washington, Basement Conference Room B-1, Phoenix, Arizona, 9:00 AM, on **November 9, 2004.**

Respectfully Submitted,

Christine Springer
Executive Director